

Commission on Local Government

Estimate of Local Fiscal Impact

2020 General Assembly Session

Bill: HB5013

Special Session: 1

Patron: Bourne

Date: 9/4/2020

In accordance with the provisions of §30-19.03 of the Code of Virginia, the staff of the Commission on Local Government offers the following analysis of the above-referenced legislation:

Bill Summary:

Civil action for deprivation of rights; duties and liabilities of certain employers in employing or contracting for the services of law-enforcement officers. Creates a civil action for the deprivation of a person's rights by a law-enforcement officer and provides that a plaintiff may be awarded compensatory damages, punitive damages, and equitable relief, as well as reasonable attorney fees and costs. The bill further imposes upon a law-enforcement officer's employer, as defined in the bill, a duty to exercise reasonable care to control a law-enforcement officer's conduct while such officer is acting outside the scope of his employment to prevent such officer from intentionally harming, or creating a risk of harm, to third parties. The bill further states that an employer has a duty of reasonable care to third parties in the supervision and training of law-enforcement officers for whose services it employs or contracts. The bill further provides that an employer is liable to a vulnerable victim, as defined in the bill, for the tortious or criminal conduct of a law-enforcement officer it employs or contracts for his services if such conduct proximately causes injury to such victim and occurs at a place and time when the employer knew or should have known that such officer could be in contact with a vulnerable victim. The bill provides that sovereign immunity and governmental immunity shall not apply to such actions specified or created in the bill.

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### Executive Summary:

Localities have evaluated a negative fiscal impact ranging from \$1.00 - \$500,000.00. Almost all localities responded with a cost and noted that the cost would be related to hiring additional staff, training, additional premiums for liability insurance, and expenditures resulting from increased litigation. Localities also noted that there is a potential for losing officers, which could result in a loss of experienced staff. Another locality noted that it could lead to elimination of offering off-duty officers to other entities. The locality that responded with no cost noted that the cost of the bill is indeterminate but significant.

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### Local Analysis:

**Locality:** City of Manassas

**Estimated Fiscal Impact:** \$50,000.00

The \$50,000 is only a minimum place holder as we expect liability insurance costs to increase. In addition, the removal of immunity protections will have a significant effect on costs of litigation even when the law enforcement officer is exonerated. Conservatively, the impact is likely in the tens of millions for all impacted localities in the Commonwealth.

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Locality: City of Virginia Beach

Estimated Fiscal Impact: \$185,000.00

It is likely that this bill would require the City to hire additional public safety attorneys. The fiscal impacted listed herein is for the costs of an additional attorney (\$120,000) and paralegal (\$65,000). In addition, there will be unknown and un-projectable costs for cases in which the City is held liable for relief under a duty of employer standard (proposed 8.01-42.7). This amount is conditional upon too many variables to estimate.

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**Locality:** City of Winchester

**Estimated Fiscal Impact:** \$500,000.00

This number is merely just an estimate of what the lawsuits could potentially be, this is very hard to predict, since this would essentially strip away the officers sovereign immunity.  
Please no..

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Locality: Fairfax County

Estimated Fiscal Impact: \$1.00

While difficult to quantify at this time, this bill could have a significant fiscal impact. Under current law, if a law enforcement officer knew or should have known that his or her conduct violated clearly established legal rights, qualified immunity does not apply, and a lawsuit can move forward. The concept of qualified immunity serves to ensure that lawsuits without merit, as determined by a court, do not go forward.

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**Locality:** Prince George County

**Estimated Fiscal Impact:** \$10,000.00

The fiscal impact for this would be an increase in our law enforcement liability insurance coverage. The approximate cost is \$10,000.00 in premium change. This legislation could also create other exposure that we can not currently quantify.

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Locality: Town of Blacksburg

Estimated Fiscal Impact: \$100,000.00

Potential impact on law enforcement liability and general government liability insurance premiums. One other impact that is not financial is that law enforcement agencies may eliminate off-duty services to other entities. The other entities are billed for these services so no direct fiscal impact to the locality. The impact would be to the outside entities not being able to obtain security for their events.

There will also be continuous training that we already have in our police department budget. It may be in different areas than currently offered.

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**Locality:** Town of Luray

**Estimated Fiscal Impact:** \$250,000.00

Potential loss of Officers resulting in loss of experience and education.

Increased cost of unsubstantiated and unfounded litigation for frivolous issues.

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